

Minneapolis
City of Lakes

**Operations &
Regulatory Services**

John Bergquist
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Environmental Services
250 South 4th Street - Room 414
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February 18, 2003

**In the matter of the On Sale Liquor License for
Nick & Tony's**

Attn: Mr. Steve Maxson, Manager

50 S. 6th St.

Minneapolis MN 55402

**Findings of Fact, Conclusions and
Recommendations**

On Tuesday, February 18, 2003, Environmental Health Specialist Anna Seime and District Supervisor Bette Packer met with Steve Maxson to discuss failure to comply with the Food and Beverage Code.

FINDINGS OF FACT

1. A routine inspection was conducted on January 24, 2002 by Environmental Health Specialist Anna Seime and District Supervisor Bette Packer. This inspection found 13 critical violations and 18 non-critical violations. Violations included: 2-102.11 demonstration of knowledge; 2-401.11 hygiene-consuming food; 3-501.16B maintain food temperatures (3 violations); 2-201.15B maintain employee illness log; 3-501.16A maintain hot holding temperature; 3-501.17A datemarking; 3-501.19D provide written procedure for time as public health control; 4-601.11A clean food contact areas; 5-205.11A maintain handsink access; 5-205.15A maintain plumbing; 6-301.11B provide fingernail brush; 6-301.12A provide soap; 2-104.11 Certified Food Manager required; 3-302.12 label food containers; 3-304.12A ice scoop storage; 3-304.13B storage of wiping cloths; 3-305.11 food stored on floor; 3-501.13 thawing procedures; 4-202.18 provide hood filters; 4-301.11 provide adequate refrigeration; 4-302.14 provide test kit; 4-402.11C chain CO2 tanks; 4-501.1143 quaternary ammonium concentration; 4-901.11 discontinue towel drying; 4-903.11A utensil storage; 5-103.13 provide hot water; 6-101.11A1 wall and ceiling surface finishes; 6-501.110B provide employee lockers; 6-501.12A clean physical facilities; and 6-501.16 hang mops. At this time a risk control plan was completed, requiring temperature logs for potentially hazardous foods and a written time/temperature policy for holding chicken. A due date of February 7th, 2002 was set for the submission of these items.

1. On Thursday, February 6th, Anna Seime contacted Steve Maxson via phone to remind him that documentation was due the following day.
2. A "Food Quality Check List" for 2/3 and 2/5 was received at 4:57 p.m. February 7th. This checklist included only 5 temperatures of the more than 57 potentially hazardous foods on this list. In addition, no written policy was received for the monitoring of time and temperature for chicken.
3. A reinspection was conducted on February 12, 2003 by Anna Seime. At this time 5 critical and 9 non-critical items remained unabated. These items included 3-501.16A hot holding of chicken at 114 *F; 3-501.16B holding cooked asparagus at room temperature of 74 *F; 3-501.19D failure to provide a written procedure for time as public health control; 4-601.11A clean food contact areas; 6-301.11B provide nailbrushes; 3-302.12 label food containers; 3-304.13B wiping cloth storage; 3-305.11 food stored on floor; 4-302.14 provide test kit; 4-402.11C chain CO2 tank; 5-103.13 provide hot water; 6-101.11A1 wall and ceiling coverage; 6-501.12A clean physical facilities; 6-501.16 hang mops. Once again, the facility could not produce enough hot water and the maximum water temperature available at the handsink was 98 *F.

CONCLUSIONS:

Management of Nick and Tony's do not have control of the hazards necessary for safe food preparation, do not have adequate hot water to meet the daily needs of the restaurant and have multiple violations of the Minneapolis Food Code Ordinance.


RECOMMENDATIONS:

1. Proper temperature logs shall be maintained for potentially hazardous foods which shall be held at 41°F or less or greater than 140°F. Logs shall include documentation of corrective actions when these critical control points are out of control. Logs shall be faxed to Anna Seime at Environmental Health (612-673-2635) every Monday through March 17th.
2. A time/temperature policy shall be provided by Steve Maxson by February 24th for cooking, holding and reheating chicken. If chicken temperatures cannot be maintained safely, the menu item will be discontinued.
3. Hot water shall be maintained at 110°F at handsinks per code requirement, and adequate quantities of hot water shall be maintained to operate the dish machine. Inadequate hot water needs shall be corrected by proper repair of the existing unit or by installation of a new or additional water heater on or before March 20th. See attached letter for conditions regarding hot water.
4. Handwashing training will be provided by Anna Seime on Thursday, February 20th at 2:00 p.m. It is expected that all employees shall attend.
5. The bus boy shall be responsible for monitoring of hand sinks for soap, towels, and nailbrushes in the front of the house, including the bar. The chef shall be responsible for the monitoring of hand sinks for soap, towels, and nailbrushes in the kitchen.

6. Management shall provide adequate space for employee personal items, including jackets, bags, purses, and other outerwear. As of February 17th, 2003 employees are eating in the dining room only.
7. Management shall provide adequate storage space to store food on shelves six inches off the floor of the walk-in cooler. According to Mr. Maxson, the menu will be reduced by 25 items and sauces will be made on site, thereby reducing the number of items stored in the walk-in cooler.
8. An Administrative Penalty of \$600 shall be assessed. \$300 shall be stayed on the condition that logs are submitted as prescribed, that hot water is provided per code requirements, that there are no handsink violations for one year, and that two subsequent inspections have three (3) or less critical violations. The check shall be made payable to Minneapolis Environmental Health, 250 S. 4th St. – Room 414, Minneapolis, MN 55415.

I have read the above report and recommendations. I agree with the report and I agree with the above recommendations. I understand that failure on my part or the part of my business to adhere to this agreement with Environmental Health may lead to a TAC Hearing and further action against my license.

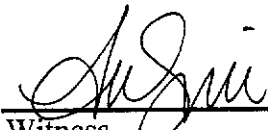
This agreement shall be approved by Minneapolis City Council and the Mayor.



Signature of Licensee

2/18/03

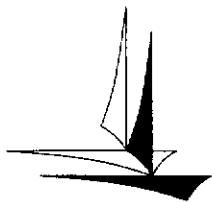
Date



Witness

2/18/03

Date



Minneapolis
City of Lakes

February 18, 2003

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Nick and Tony's
Steve Maxson Manager
50 S 6th Street
Minneapolis MN 55402

Dear Mr. Maxson,

A routine food safety inspection at Nick and Tony's on January 24, 2003 and the reinspection on February 12, 2003 documented continuing food code violations for hot water in your new facility. On January 24 the facility had no hot water available. On February 12, the water at the hand sink was 98 degrees F and availability of hot water on a continuing basis remained a problem.

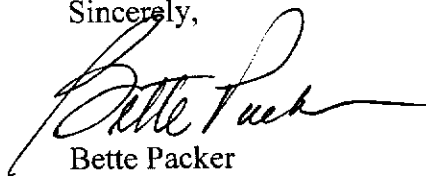
The Minnesota Food Code Chapter 4626 and the Minneapolis Food Code Chapters 186 and 188 require in 4626.1025 5-103.13 that *hot water generation and distribution systems shall be sufficient to meet the peak hot water demands throughout the food establishment*. More specifically, the code states in 4626.1050 5-202.12A, *A handwashing lavatory shall be equipped to provide water at a temperature of at least 43 degrees C (110 degrees F) through a mixing valve or combination faucet*. Dishmachine requirements are outlined in 4626.0785 4-501.110B. *The temperature of the wash solution in spray-type warewashers that use chemicals to sanitize shall not be less than 49 degrees C (120 degrees F)*.

Furthermore 188.580 of the Minneapolis Code, Emergency closure of licensed food establishment, permits summary closure when *no potable hot or cold water under pressure to a food establishment to such an extent that handwashing, warewashing, food preparation, or toilet facilities are not operational*.

Over four weeks have passed since the first inspection in January without improvement in the supply of hot water to Nick and Tony's. Per our discussion in the Administrative

Hearing this morning, the hot water supply system must be upgraded to provide adequate amounts of hot water by March 20, 2003 or, pursuant to 188.580 of the Minneapolis Food Code, Environmental Health will close Nick and Tony's until the violation is corrected.

Sincerely,

A handwritten signature in cursive script, appearing to read "Bette Packer", with a long horizontal flourish extending to the right.

Bette Packer
District Supervisor
612-673-3690

This letter shall be attached to the Administrative Hearing, and shall be sent to the Minneapolis City Council and the Mayor for approval.